

Agency 3

State Treasurer

Articles

- 3-1. DISPOSITION OF UNCLAIMED PROPERTY.
- 3-2. KANSAS POSTSECONDARY EDUCATION SAVINGS PROGRAM.
- 3-3. LINKED DEPOSIT LOAN PROGRAMS.
- 3-4. LOW-INCOME FAMILY POSTSECONDARY SAVINGS ACCOUNTS INCENTIVE PROGRAM.

Article 1.—DISPOSITION OF UNCLAIMED PROPERTY

3-1-1. Time limits. Whenever limits of time are provided for in the act or in these rules and regulations the following shall govern: Whenever the time provided for is seven (7) days or more, Saturdays, Sundays and legal holidays shall be included in making the computation. Whenever the time so limited is less than seven (7) days, Saturdays, Sundays and legal holidays shall be excluded. Whenever the last day of any such period shall fall on a Saturday, Sunday or legal holiday, such day shall be omitted from the computation. (Authorized by K.S.A. 1979 Supp. 58-3927; effective May 1, 1980.)

3-1-2. Definitions. (a) “Demand deposit” means every deposit which is not a “time deposit” or “savings deposit”.

(b) “Time deposit” means “time certificate of deposit” and “time deposit open account”.

(c) “Time certificate of deposit” means a deposit evidenced by a negotiable or non-negotiable instrument which provides on its face that the amount of such deposit is payable:

(1) On a certain date, specified in the instrument, not less than thirty (30) days after the date of the deposit.

(2) At expiration of a specified period not less than thirty (30) days after the date of the instrument.

(3) Upon written notice to be given out less than thirty (30) days before the date of repayment.

(d) “Time deposit, open account” means a deposit, other than a “time certificate of deposit”, with respect to which there is in force a written contract with the depositor that neither the whole nor any part of such deposit may be withdrawn, by check or otherwise, prior to the date of matur-

ity, which shall not be less than thirty (30) days after the date of the deposit; or prior to the expiration of a period of notice which must be given by the depositor in writing not less than thirty (30) days in advance of withdrawals.

(e) “Savings deposit” means a deposit with respect to which the depositor is not required by the deposit contract but may at any time be required by the financial institution to give notice in writing of an intended withdrawal not less than thirty (30) days before such withdrawal is made and which is not payable on a specified date or at the expiration of a specified time after the date of deposit.

(f) “Charges that may lawfully be withheld” means any type of deduction by a holder (including service charges, holding charges and administrative costs) from property presumed abandoned pursuant to the disposition of unclaimed property act, also deductions by a holder from property prior to the presumption of abandonment, which deductions were made by reason of the nonoccurrence of the events or acts that prevent the presumption of abandonment, or by reason of the inactivity, dormancy of unclaimed status of the property.

(g) “Memorandum on file” means a written notation prepared in the ordinary course of business of a financial organization reflecting an oral or written interest expressed by the owner relating to his or her funds of deposit. To be effective as a bar to the presumption of abandonment the memorandum must be prepared contemporaneously with the expression of interest by the owner and prepared and dated by a responsible representative of the financial organization.

(h) “Annual correspondence” means written correspondence mailed first class, postage prepaid, by the holder on an annual basis. (Author-

ized by K.S.A. 1979 Supp. 58-3927; effective May 1, 1980.)

3-1-3. Charges by holder. Charges deducted by any holder shall be included as a portion of the report filed pursuant to K.S.A. 1979 Supp. 58-3912 along with the citation of the authority or a copy of the form or contract authorizing such charges. The value or amount of each item of property before any such charges were deducted therefrom shall also be stated in the report along with the amount of the charges deducted from each item and the date or dates on which such charges were deducted. The fact that the total charges deducted from an item of property equals or exceeds the value of the item shall not relieve the holder from making the report or providing the information requested on the report form. The state treasurer may by special inquiry to holder require additional explanation of charges including documentation of correspondence between the holder and owner, passbook provisions, signature cards, rules and regulations, by-laws, and other documents concerning any agreement between the holder and the owner.

If payment of interest or dividends on property presumed abandoned pursuant to the disposition of unclaimed property act is discontinued, before or after the property is presumed abandoned, the holder shall include in the report filed pursuant to K.S.A. 1979 Supp. 58-3912 a statement explaining the discontinuance. The state treasurer, by special inquiry with the holder, may require documentation relative to the discontinuance. (Authorized by K.S.A. 1979 Supp. 58-3927; effective May 1, 1980.)

3-1-4. Action by holder. An act or occurrence delaying or terminating the presumption of abandonment cannot result from the unilateral act of the holder except in those instances where correspondence is mailed by the holder and not returned. (Authorized by K.S.A. 1979 Supp. 58-3927; effective May 1, 1980.)

Article 2.—KANSAS POSTSECONDARY EDUCATION SAVINGS PROGRAM

3-2-1. No guarantee of principal or earnings; required statement. Each account contract, account application, and account deposit slip, and all promotional materials for the Kansas postsecondary education savings program shall contain the following statement or an equivalent

statement approved by the treasurer, in a typeface and a location that are readily visible: “**NOTICE:** Accounts established under the Kansas Postsecondary Education Savings Program and their earnings are neither insured nor guaranteed by the State of Kansas.” (Authorized by K.S.A. 1999 Supp. 75-644 and 75-647; implementing K.S.A. 1999 Supp. 75-647; effective June 30, 2000.)

3-2-2. Excess contributions. (a)(1) “Excess contributions” means contributions on behalf of a designated beneficiary in excess of the maximum account balance.

(2) “Maximum account balance” means an amount equal to the average amount of the qualified higher education expenses that would be incurred by a designated beneficiary for five years of study at institutions of postsecondary education located in the midwest states, as determined annually by the state treasurer.

(b) The program manager shall establish adequate safeguards to prevent excess contributions. At a minimum, those safeguards shall include all of the following:

(1) The program manager shall identify all accounts with the same designated beneficiary.

(2) When a contribution is forwarded to the program manager, the program manager shall use the following calculation to determine whether that contribution would exceed the maximum account balance:

(A) Add the following amounts:

(i) The new contribution;

(ii) the aggregate balance of all accounts for that designated beneficiary at the end of the prior quarter; and

(iii) the sum of all other contributions made during the current quarter to any account for that designated beneficiary; and

(B) subtract the sum of all withdrawals made during the current quarter from any account for that designated beneficiary.

Any portion of the contribution that is determined in this manner to exceed the maximum account balance shall be an excess contribution.

(3) If the program manager determines that a contribution will result in excess contributions for that designated beneficiary, the program manager shall deposit only that portion of the contribution, if any, that will not result in an excess contribution. The program manager shall return the balance of the contribution to the contributor.

(c) The program manager shall continually

monitor the contributions to and aggregate balance of all the accounts for each designated beneficiary, using the following calculation:

(A) Add the following amounts:

(i) The aggregate balance of all accounts for that designated beneficiary at the end of the prior quarter; and

(ii) the sum of all contributions made during the current quarter to any account for that designated beneficiary; and

(B) subtract the sum of all withdrawals made during the current quarter from any account for that designated beneficiary.

If at any time the result of this calculation exceeds the maximum account balance, the program manager shall determine whether any portion of the amount in excess of the maximum account balance is attributable to contributions made during the current quarter. The program manager shall not be required to take any further action if the amount that created the excess is not attributable to current-quarter contributions. If any portion of the excess is attributable to current-quarter contributions, the program manager shall notify the account owner of each account creating the excess that excess contributions have been made on behalf of the designated beneficiary and that the excess contributions attributable to that account must be eliminated through a withdrawal or a roll-over distribution.

(d) If, within 30 days of the date the notice is mailed to the account owner, the account owner does not submit a request for a withdrawal or roll-over distribution in an amount sufficient to eliminate the excess contributions for that designated beneficiary, the program manager shall process withdrawal of the excess contributions from the affected account and shall forward the proceeds to the account owner. (Authorized by K.S.A. 2001 Supp. 75-644 and 75-646, as amended by L. 2002, Ch. 104, Sec. 2; implementing K.S.A. 2001 Supp. 75-646, as amended by L. 2002, Ch. 104, Sec. 2; effective June 30, 2000; amended Dec. 6, 2002.)

3-2-3. Withdrawals. Any account owner may withdraw part or all of the balance from the owner's account at any time.

Each request for a withdrawal shall be made in the form prescribed by the treasurer. The request shall include an identification of the account from which the withdrawal is to be made and the amount.

Except as otherwise provided by the postsecon-

dary education savings agreement, the program manager shall process each withdrawal upon receipt of a completed withdrawal request. (Authorized by K.S.A. 2001 Supp. 75-644 and 75-646, as amended by L. 2002, Ch. 104, Sec. 2; implementing K.S.A. 2001 Supp. 75-646, as amended by L. 2002, Ch. 104, Sec. 2; effective June 30, 2000; amended Dec. 6, 2002.)

Article 3.—LINKED DEPOSIT LOAN PROGRAMS

3-3-1. Agricultural production loans. For each agricultural production loan authorized by K.S.A. 75-4270 et seq. and amendments thereto, the "eligible agricultural borrower" shall be a resident of the state of Kansas, and a majority of the farm for which the proceeds of the loan are expended shall be located within the state of Kansas. A limited liability agricultural company, limited agricultural partnership, or family farm corporation shall be considered a resident if it meets the requirements of K.S.A. 17-5903, and amendments thereto. (Authorized by K.S.A. 2007 Supp. 75-4270; implementing K.S.A. 2007 Supp. 75-4270, 75-4271, and 75-4272; effective, T-3-7-3-00, July 3, 2000; effective Oct. 27, 2000; amended, T-3-6-25-08, July 1, 2008; amended Oct. 24, 2008.)

3-3-2. Kansas housing loans. (a) The proceeds of all housing loans authorized by L. 2008, ch. 115, and amendments thereto, shall be used only for building houses that initially sell or are appraised for less than 350% of the Kansas median household income, based on the most recent data available from the United States census bureau on July 1 and January 1 each year. The value of the house shall include the value of the land upon which the house is located only if the cost of the land is included in the housing loan.

(b) The loans shall be awarded on a first-come, first-served basis, reserving at least 50% of the funds available for houses located within one mile of the city limits of any of the following Kansas cities: Chanute, Coffeyville, Erie, Fredonia, Greensburg, Independence, Iola, Neodesha, or Osawatomie. A house shall be considered to be located within one mile of the city limits if the majority of the tract of real estate upon which the house is placed is within one mile of the city limits.

(c) Savings banks and savings and loan associations shall be considered to be eligible lending institutions without regard to the county in which the savings banks and savings and loan associa-

tions are located, despite K.S.A. 75-4201(l) and (m), and amendments thereto, respectively. (Authorized by L. 2008, ch. 115, sec. 4(a); implementing L. 2008, ch. 115, sec. 3(e) and sec. 5(g); effective, T-3-6-25-08, July 1, 2008; effective Oct. 24, 2008.)

**Article 4.—LOW-INCOME FAMILY
POSTSECONDARY SAVINGS ACCOUNTS
INCENTIVE PROGRAM**

3-4-1. Definitions. In addition to the terms and definitions in K.S.A. 75-643 and K.S.A. 75-650, and amendments thereto, the following terms shall have the meanings specified in this regulation:

(a) “Contribution” means any deposit made by a participant to the participant’s account during a calendar year, except any deposit that is one of the following:

(1) A rollover from another account in the Kansas postsecondary education savings program;

(2) a rollover from another state’s qualified tuition program as defined in internal revenue code section 529;

(3) a transfer from a Coverdell education savings account as defined in internal revenue code section 530; or

(4) a transfer of proceeds from a qualified U.S. savings bond as described in internal revenue code section 135(c)(2)(C).

(b) “Household” means a group of individuals who are related by birth, marriage, or adoption and who share a residence.

(c) “Participant” has the meaning specified in K.S.A. 75-650, and amendments thereto. Each participant shall be an account owner. Each joint account owner shall separately meet the program’s eligibility requirements. (Authorized by and implementing K.S.A. 2006 Supp. 75-650; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006; amended July 6, 2007.)

3-4-2. Eligibility requirements. (a) Each applicant shall meet the following requirements:

(1) Be a resident of the state of Kansas;

(2) reside in a household with a combined federal adjusted gross income for all individuals residing in the household that is not more than 200 percent of the current federal poverty level; and

(3) not be claimed as a dependent on someone else’s income tax return.

(b) Any individual who files a joint income tax return may apply individually or jointly with the

other individual listed on the income tax return if that other individual also meets the program’s eligibility requirements.

(c) Any set of joint account owners may apply either jointly for one matching grant or separately for one matching grant for each joint account owner. If multiple accounts are used to qualify for multiple matching grants, the same individuals shall be listed as the joint account owners of each account. (Authorized by and implementing K.S.A. 2006 Supp. 75-650; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006; amended July 6, 2007.)

3-4-3. Applications. Each application shall be processed in the order received for awarding the number of matching grants authorized by L. 2006, ch. 189, sec. 3, and amendments thereto. Each application shall be accompanied by a copy of the federal income tax return for the previous tax year for each individual residing in the household who is required to file an income tax return. (Authorized by and implementing L. 2006, ch. 189, sec. 3; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006.)

3-4-4. Eligibility period. Each participant shall be entitled to a matching grant equal to the amount of the participant’s contributions to the participant’s account or accounts for the program year in which the participant’s application is approved. The program year shall coincide with the period designated for contributions that are eligible for the deduction pursuant to K.S.A. 79-32,117(c)(xv) and amendments thereto. Each participant shall reapply each program year to remain eligible for the program. (Authorized by and implementing K.S.A. 2006 Supp. 75-650; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006; amended July 6, 2007.)

3-4-5. Matching grant accounts. The matching grant funds for each participant shall be deposited in a separate account in the participant’s name, with the following restrictions:

(a) Only the participant shall be the account owner of the matching grant account. Joint applicants shall be joint account owners of both their joint account and the corresponding matching grant account.

(b) No change in ownership of the participant’s account or the corresponding matching grant account shall be allowed, except upon approval by the treasurer. A change in account ownership to

another participant may be approved by the treasurer. A change in account ownership to any individual may be approved by the treasurer upon the participant's death, divorce, or incapacity.

(c) Any participant may change the designated beneficiary for that participant's account or accounts. However, the designated beneficiary for the matching grant account shall always be the same as the designated beneficiary for the participant's account.

(d) The investment portfolio for the corresponding matching grant account shall always be the same as the investment portfolio selected for the participant's account.

(e) Each request for a withdrawal from the matching grant account shall be submitted to the treasurer's office for approval. If the treasurer determines that the request is for qualified higher education expenses, then the request shall be approved. Each approved withdrawal from the matching grant account shall be paid either directly to the educational institution or to the participant or the designated beneficiary, upon presentation of documentation acceptable to the treasurer that the participant or designated beneficiary has paid qualified higher education expenses at least equal to the amount of the requested withdrawal. Each approved withdrawal shall be equally funded from the participant's account and the corresponding matching grant account. (Authorized by and implementing K.S.A. 2006 Supp. 75-650; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006; amended July 6, 2007.)

3-4-6. Multiple accounts. Each participant with multiple accounts shall receive only one matching grant, which shall be allocated between or among the participant's corresponding matching grant accounts according to this regulation.

(a) If the participant has contributed at least \$600 in the current calendar year to existing accounts at the time the grant application is approved, the matching grant shall be equally divided among the accounts selected by the participant. However, the portion of the matching grant funds allocated to each corresponding

matching grant account shall not exceed the participant's contributions to each of the participant's accounts for the applicable calendar year.

(b) If the participant is opening new accounts or has not contributed at least \$600 to an existing account in the current calendar year, the matching grant shall be automatically allocated among the participant's selected accounts based on how the participant contributes the first \$600 to these accounts. Joint account owners may receive multiple matching grants as specified in K.A.R. 3-4-2. (Authorized by and implementing K.S.A. 2006 Supp. 75-650; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006; amended July 6, 2007.)

3-4-7. Forfeit of matching grant funds.

(a)(1) Except as specified in paragraphs (a)(2) and (a)(3), funds in a participant's matching grant account shall be forfeited in an amount equal to either of the following:

(A) Any nonqualified withdrawal from the participant's account; or

(B) any rollover distribution to another qualified tuition plan.

(2) If any nonqualified withdrawal or rollover distribution closes the participant's account, the corresponding matching grant account shall be closed and its entire balance shall be forfeited.

(3) Any participant who contributes more than the \$600 maximum matching grant amount may make a nonqualified withdrawal or rollover distribution of the excess contribution without forfeiting funds from the matching grant account.

(b) If the treasurer determines that a participant has made a material misrepresentation on the participant's application, all matching grant funds resulting from the application shall be forfeited.

(c) If a participant's account ever becomes reportable as unclaimed property under K.S.A. 58-3934 et seq. and amendments thereto or the laws of any other state, the remaining balance in the matching grant account shall be forfeited.

(d) All forfeited funds shall be returned to the Kansas postsecondary education savings trust fund. (Authorized by and implementing L. 2006, ch. 189, sec. 3; effective, T-3-6-29-06, June 29, 2006; effective Oct. 27, 2006.)